

Web: www.ci.sammamish.wa.us

Maintenance and Defect Agreement (Two Years) For Public Roads and Drainage Facilities	Applicant Name and Address;
Total Guarantee Amount: \$	Project Name and Address

This AGREEMENT is made and entered into this _____ day of _____, 20____, by and between The City of Sammamish, hereinafter referred to as the "CITY", and the above named applicant, hereinafter the "APPLICANT."

Basis for AGREEMENT:

WHEREAS the undersigned APPLICANT has constructed public roads and/or drainage facilities, including but not limited to roads, sidewalks, curbs, drainage and storm sewers ("improvements") within public rights of way, easements and tracts, in connection with the above-referenced project;

WHEREAS the APPLICANT has agreed to secure the successful maintenance and operation of the improvements pursuant to The City of Sammamish Ordinance 099-29 and City of Sammamish Code Titles 14, 19A and 27A as applicable; and

WHEREAS at the end of a two year period, as more fully described below, the CITY will evaluate whether to take over operation and maintenance of the improvements;

NOW THEREFORE, the CITY and the APPLICANT, its legal representatives, successors and assigns hereby agree as follows:

Terms of the AGREEMENT:

1. The improvements constructed by the APPLICANT, or its representative, shall successfully operate and shall remain free of defects in design, workmanship and materials, for the period commencing on the date of final construction approval by the CITY and ending two years from that date, or the date of final plat approval, whichever is later (hereinafter "two year period").
2. The APPLICANT is responsible for all maintenance of the improvements, during the two year period.
3. In the event of any failure of the improvements to satisfactorily operate or in the event of a defect in design, workmanship or materials, the APPLICANT shall promptly and satisfactorily repair and/or correct the failure or defect and any accompanying or resulting damage.
4. The CITY will perform periodic maintenance inspections during the two year period.
5. Upon notification by the CITY during the two year period, the APPLICANT shall perform necessary maintenance and/or correct and/or repair any defects in the improvements, and any accompanying or resulting damage, within the time frame specified by the CITY.
6. In the event the CITY determines, at its sole discretion, that repairs must be performed immediately to prevent damage or risk to person(s) and/or property, the CITY may make necessary repairs and perform corrective action. The costs of these repairs/corrections shall be paid by the APPLICANT, upon demand by the CITY.
7. The APPLICANT shall pay all required fees in accordance with all applicable City of Sammamish Codes.
8. If, at the end of the two year period, the CITY, at its sole discretion, determines that the improvements are not or have not been adequately maintained, they do not operate satisfactorily, or the improvements contain defects in design, materials or workmanship, the CITY will notify the APPLICANT in writing. The APPLICANT shall promptly perform maintenance, correction or repair, to the CITY's satisfaction. If such does not occur to the satisfaction of the CITY, the CITY may declare a default and use the remedies for a default provided for in paragraph 10 below. Nothing contained herein shall be construed to require the CITY to take over the operation or maintenance of improvements that are not in a condition satisfactory to the CITY. In its sole discretion, the CITY may extend the duration of the two year period for purposes of allowing the APPLICANT additional time to perform or complete maintenance, correction or repair.

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- Nothing contained in this numbered paragraph shall be construed to limit the remedies available to the CITY in law and in equity in enforcing or otherwise compelling compliance with the terms of this Agreement. Further, Any action or inaction by the CITY following any default under any term or condition of this AGREEMENT shall not be deemed to waive any rights of the CITY pursuant to this AGREEMENT. All costs, including reasonable attorney's fees for the enforcement of the terms of this AGREEMENT, shall be borne by the APPLICANT. In the event that the guarantee amount is demanded and the total costs associated with curing the default exceed the guarantee amount, the APPLICANT shall remain responsible to the CITY for payment of any remaining amount. In the event of a default, the CITY may contract with a third party to cure the default.

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